

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

In re:

BINGTUAN YIN and
XIANGLING KONG,
Debtors.

Case No. 21-10653-KHK

Chapter 7

TRINA BENGTTSSON,
Plaintiff-Creditor

Adv. Proc. No. 21-01043-KHK

v.

BINGTUAN YIN and
XIANGLING KONG,
Defendants.

NOTICE OF MOTION TO WITHDRAW AS COUNSEL

Counsel for the Debtors/Defendants, Bingtuan Yin and Xiangling Kong has filed a Motion to Withdraw as Counsel, asking that the Court permit the Boleman Law Firm, P.C., and its lawyers to withdraw as counsel of record in this case.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one.

A hearing will be scheduled on this Motion, and you will receive separate notice of the date and time of the hearing. If you want to be heard on this matter, you or your attorney must:

File with the court, at the address below, a written response pursuant to Local Rule 9013-1(H).

Clerk of Court
United States Bankruptcy Court
200 S. Washington Street
Alexandria, Virginia 22314

If you mail your response to the Court for filing, you must mail it to the address listed immediately above and early enough so that the Court will **receive** it within the time period stated above.

Amanda DeBerry Koehn (VSB #83805)
Boleman Law Firm, P.C.
2104 W. Laburnum Ave, Suite 201
Richmond, VA 23227
Telephone: (804) 358-9900
Counsel for Debtors/Defendants

You must also send a copy to:

Boleman Law Firm, P.C.
2104 W Laburnum Ave, Suite 201
Richmond, VA 23227

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

Dated: December 1, 2021

BOLEMAN LAW FIRM, P.C.

By: /s/ Amanda DeBerry Koehn
Amanda DeBerry Koehn (VSB#83805)
Boleman Law Firm, P.C.
2104 W. Laburnum Ave, Suite 201
Richmond, VA 23227
Telephone (804) 358-9900
Counsel for Debtors/Defendants

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2021, I have transmitted a true copy of the foregoing document electronically through the Court's CM/ECF system or by mail to Debtor, and to Andrea Davison, Counsel for Plaintiff, 2311 Wilson Blvd., Suite 500, Arlington, VA 22201.

/s/ Amanda DeBerry Koehn
Counsel for Debtors/Defendants

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MOTION TO WITHDRAW AS COUNSEL

COMES NOW, Boleman Law Firm, P.C. (“Boleman”), and respectfully requests that the Court allow Boleman and each of its respective lawyers to withdraw as counsel of record for Bingtuan Yin and Xiangling Kong (“Debtors” or “Defendants”) based upon the following reasons:

1. The Debtors filed the underlying bankruptcy case on April 15, 2021.
2. This Adversary Proceeding was commenced on July 9, 2021.
3. Counsel at Boleman and the Debtor have previously been in communication

regarding the instant adversary proceeding. However, Counsel has been unable to reach the Debtors since a communication on November 15, 2021, and Debtors have failed to make agreed upon payments towards their retainer.

Amanda DeBerry Koehn (VSB #83805)
Boleman Law Firm, P.C.
2104 W. Laburnum Ave, Suite 201
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Telephone: (804) 358-9900
Counsel for Debtors/Defendants

4. Pursuant to the Engagement Letter retaining Counsel by the Debtors, \$10,000.00 of the agreed upon retainer was to be paid prior to filing, with an additional \$15,000.00 due no later than October 5, 2021. The Engagement Letter advises that “Boleman’s representation shall terminate upon ... failure to pay required attorneys fees.”

5. The Debtors were unable to pay the \$15,000.00 on October 5, 2021, and Counsel agreed to an extension through November 5, 2021. On November 5, 2021, the Debtors again indicated they were unable to pay the full amount. Debtors and Counsel agreed that \$7,500.00 would be paid on November 5, 2021, and the remaining \$7,500.00 by November 30, 2021. Counsel advised that failure to abide by the agreed upon payment schedule would result in withdrawal as counsel, and the Debtors indicated their understanding and agreement.

6. As of December 1, 2021, the remaining retainer amounts have not been paid, and Debtors have not been responsive to contact from Counsel.

7. Communications between the Debtors and their counsel are a fundamental component of Counsel’s ability to represent the Debtors zealously and in compliance with all ethical duties and responsibilities.

8. Counsel believes continued representation of the Debtor under the circumstances is not required per the Rules of Professional Conduct, i.e., Rule 1.2 (“[a] lawyer may limit the objectives of the representation if the client consents after consultation”) and 1.3 ([a] lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.”).

9. Accordingly, pursuant to Rule 1.16(a)(1) of the Virginia Rules of Professional Conduct, lawyers shall withdraw from representing a client if the representation “will result in violation of the Rules of Professional Conduct or other law.”

10. Furthermore, pursuant to Rule 1.16(b) of the Virginia Rules of Professional

Conduct, lawyers may withdraw from representation if “the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer’s services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled” and “good cause for withdrawal exists.”

11. Under all the circumstances of this case, Boleman Law Firm, P.C. is unable to represent the Debtors in a manner compliant with the requirements of this Court in this case, and the professional requirements set forth by the State Bar of Virginia.

WHEREFORE Boleman Law Firm, P.C., and its respective lawyers request that this Honorable Court enter an Order permitting the Boleman Law Firm, P.C., and its lawyers to withdraw as counsel of record and grant any further relief that the Court deems to be just and proper under the circumstances.

Respectfully Submitted,
Boleman Law Firm P.C.

By: /s/ Amanda DeBerry Koehn
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Boleman Law Firm, P.C.
2104 W. Laburnum Ave, Suite 201
Richmond, VA 23227
Telephone (804)358-9900
Counsel for Debtors/Defendants

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2021, I have transmitted a true copy of the foregoing document electronically through the Court’s CM/ECF system or by mail to Debtor, and to Andrea Davison, Counsel for Plaintiff, 2311 Wilson Blvd., Suite 500, Arlington, VA 22201.

/s/ Amanda DeBerry Koehn
Counsel for Debtors/Defendants